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MAR 9 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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*NOT ADMITTED TO THE BAR

**ADMITTED IN PENNSYLVANIA ONLY

March 8, 1993

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Dear Ms. Searcy:

Enclosed for filing are an original and four copies of the
Comments of the Kenton/Boone CATV Board in MM Docket No. 92-266.

Very truly yours,

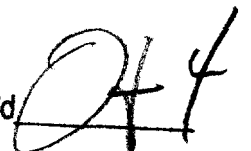
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By


Frederick E. Ellrod III

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Implementation of Section 3 of the)
Cable Television Consumer Protection)
and Competition Act of 1992)

Rate Regulation)

MM Docket No. 92-266

COMMENTS OF
THE KENTON/BOONE CATV BOARD

Joseph Van Eaton
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MM Docket No. 92-266

COMMENTS OF
THE KENTON/BOONE CATV BOARD

The Kenton/Boone CATV Board ("Board"), by its attorneys, hereby files the following comments with respect to the database compiled by the Federal Communications Commission ("Commission") from the Cable TV System Operators Rate Structure Questionnaire ("Survey") mailed to cable system operators in late December, 1992, and released on February 24, 1993.

The Survey data pertaining to the franchises administered by the Board are incorrect in several respects. The Board therefore respectfully submits that the Survey data indicate that the rates charged by systems purportedly subject to effective competition are higher than they actually are, because (1) the Survey suggests systems are subject to competition which are not; (2) rate data were inaccurately reported in some cases; and (3) rates reported may not reflect additional services provided which reduce the total amount subscribers pay for cable service.

I. BACKGROUND

The Board is a joint powers agency formed by Kenton County and Boone County, Kentucky, to administer cable franchises in those counties. In 1980, Storer Communications of Northern Kentucky, Inc. ("Storer") was issued a franchise for cable service throughout Kenton and Boone counties. A second franchise was issued in 1985 to Telesat Communications of Kentucky, Inc. ("Telesat"), and transferred in 1989 to Jacor Cable, Inc. ("Jacor"). This second franchise initially authorized Telesat to serve areas of Boone County not served by Storer. However, at the time of the 1989 transfer, Jacor's franchise territory was extended to all unincorporated areas of Boone County.

There is no cable system owned or operated by any franchising authority or other government entity in Kenton or Boone Counties. Currently, Storer and Jacor serve largely separate regions of Boone County (Kenton County is served only by Storer).

II. THE SURVEY MISTAKENLY SHOWS A MUNICIPAL CABLE SYSTEM IN BOONE COUNTY

Both Storer and Jacor appear in the Survey database (community unit ID numbers KY0542 and KY0867 respectively). In each case, the Commission's code for the type of competition, listed in the Commission's documentation at the end of Schedule 5 (variable S5_SC4CO), is "C". Code C indicates that Storer and Jacor compete against "service provided by a franchise

authority"¹ (or, more briefly, a "municipal system"). However, this is incorrect. As noted above, there is no municipal system in Kenton or Boone Counties.

The error in Storer's data appears to be in Storer's Schedule 4 entries, where line 5 (variable S4_50VID) is marked "Y" and line 6 (variable S4_VIDNU) is marked "1," suggesting that a municipal system serves at least 50 percent of the households in a franchise area and that this occurs in one franchise area. Jacor correctly reported that no municipal system serves the area.

III. VERY LITTLE COMPETITION EXISTS

While there is some competition between Jacor and Storer, the competition that exists, to the Board's knowledge, is confined to a small subsection of the unincorporated areas in Boone County; the two systems do not in fact effectively compete. Jacor has informed the Board that as of February 28, 1993, its system, which was initially created largely to fill the gaps in Storer's coverage, passes less than 4000 homes in the overbuild areas. Less than half of Jacor's subscribers (1476 of 3301) are to be found in those areas. Similarly, Storer's monthly sales report to the Board (as of February 21, 1993) indicates that less than 5000 homes are in overbuild areas, and less than half of its

¹FCC Cable TV Rate Survey Database: Structure of Database and Explanatory Notes at 2 (Feb. 24, 1993) ("Survey Structure").

Boone County households (2712 of 10126) are in those areas.² Most customers of each system lack a choice of cable companies. It would thus distort the facts to suppose that this is a generally competitive market.

IV. THE PRICE REPORTED BY STORER IS MISLEADING IN THE CONTEXT OF ITS CLAIM OF COMPETITION.

Storer's Survey data report a total price of \$20.60 for its "full basic" (limited basic plus the second tier). This is correct for most of Kenton and Boone Counties, where there is no competition. However, the Survey data fail to show the fact that Storer has historically charged much lower rates in the limited area where it is in head-to-head competition with Jacor.

In the overbuild areas, Storer currently charges only \$15.49, over five dollars less than in the areas where it is the only cable operator. In other words, a reduction of approximately 25% in Storer's price has resulted from competition. Yet because the Survey form reports only a single price, and because it indicates incorrectly that there is effective competition in Storer's franchise area, the database misleadingly suggests that the \$20.60 monopoly price is a competitive price. The Survey results thus obscure the real subscriber savings that have resulted from the limited head-to-head competition in Boone County. Moreover, if the prices

² The system that serves Kenton-Boone serves closer to 100,000 homes altogether, according to the data reported by Storer.

reported by Storer were to be used in computing a competitive average for benchmark purposes, they would improperly inflate the resulting average.

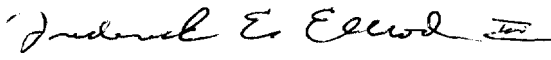
Moreover, the rate data inaccurately report information that underlies important differences in prices paid in areas where Storer and Jacor compete and areas where they do not. Storer's Schedule 7 (lines 5-6) lists no charges for remote controls or additional outlets, although it does inconsistently indicate (lines 13-14) that Storer rented 2469 remotes and charged for 2928 additional outlets in the last fiscal year. In fact, Storer currently charges \$4.95 for a wireless remote, while additional outlets involve a \$4.95 charge with converter in areas where there is no competition. In areas where there is competition, Storer charges \$2.75 for a wireless remote, and \$2.75 for an additional outlet and converter. These differences mean subscribers in competitive areas pay in many cases \$9.00 less for basic services and equipment than in areas where there is no competition. Installation charges are also discounted. Data for Telesat likewise do not indicate the full benefits received by subscribers in competitive areas. Telesat does not charge for converters at all, for example.

CONCLUSION

Rates in competitive areas in Boone County are substantially lower than suggested by the Commission's survey.

Respectfully submitted,

THE KENTON/BOONE CATV BOARD

By 
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March 9, 1993

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